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| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/708,548 | BEENAU ET AL. | |
| | Examiner | Art Unit | |
| | Daniel A. Hess | 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/14/05 amendment by applicant.
2. ☒ The allowed claim(s) is/are 1-33 and 35-46.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

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| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>1/23/06</u> 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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ALLOWANCE

This action is in response to applicant's amendments and arguments filed 11/14/2005, which have been placed in the electronic file of record.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Carl Wischhusen on 1/23/2006.

The application has been amended as follows:

In claim 1, line 1, the words 'translucent or transparent' are inserted before the word 'transaction device'.

In claim 32, line 1, the words 'translucent or transparent' are inserted before the word 'transaction device'.

Claim 34 is cancelled.

Allowable Subject Matter

Claims 1-33 and 35-46 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach or fairly suggest a translucent or transparent transaction card having a machine recognizable compound substantially covering a device layer, the device layer containing a transponder system operable to receive an interrogation signal and send a response.

Further, the applicant has amended the claims to overcome rejections under 35 USC 112 which had been made in the case. These rejections are withdrawn.

The rejection which had been made under 35 USC 103 is withdrawn, based on the applicant's convincing arguments of 11/14/2005. This is discussed further below.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

The applicant's arguments of 11/14/2005 were generally convincing. Two arguments in particular made by the applicant were particularly strong. Firstly, the applicant argued on page 18, at the end of the first paragraph that Kilmer's machine recognizable compound layer has apertures, and thus cannot be said to "substantially cover" the layer below it.

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Secondly, the applicant has argued (page 20), "Applicants note that Kilmer's card is formed of very thin sheets of PVC and PVAC film that are laminated together by placing the sheets through hot platens or calendars at a temperature of 250 C (see Kilmer at page 1, lines 53-88). The Office Action provides no basis for expecting such a process to be successful in fabricating a card containing the electronic circuitry discussed in Mundigl, such as a semiconductor chip and a wire antenna coil." The examiner agrees and notes that the electronic circuitry layer would likely be damaged, both from heat and from pressure from the platens.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A. Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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1/23/06

DANIEL STCYR
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